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6  
7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**

9  
10 THOMAS ZIRKIN, an Individual,

11 **Plaintiffs,**

12 **vs.**

13 STATE FARM MUTUAL AUTOMOBILE  
14 INSURANCE COMPANY, an Illinois  
15 Corporation; and USAA GENERAL  
16 INDEMNITY COMPANY, a Texas  
17 Corporation

CASE NO.: 2:22-cv-01627-JCM-DJA

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24 **STIPULATION AND ORDER  
REGARDING FRCP 35 MEDICAL  
EXAMINATION OF PLAINTIFF  
THOMAS ZIRKIN**

17 **Defendants.**

18 IT IS HEREBY STIPULATED AND AGREED by and between State Farm Mutual  
19 Automobile Insurance Company, USAA General Indemnity Company (collectively  
20 “Defendants”) and the Plaintiff Thomas Zirkin (the “Plaintiff”), to the terms of the FRCP Rule  
21 35 Examination of Plaintiff to be conducted by James Forage, M.D. (“Doctor”) as follows:

22 1. The scope of the examination is limited to the injuries Plaintiff alleges were  
23 caused by the subject accident and which are within the Doctor’s field of expertise.

1       2.     No persons shall be present during the examination other than Plaintiff, the Doctor  
2 and members of the Doctor's staff.

3       3.     The Doctor will treat Plaintiff with the same respect with which he treats his  
4 patients.

5       4.     The Doctor will not require the Plaintiff to sign or fill out any document(s) that  
6 had not been provided to the Plaintiff's counsel at least three business days prior to the  
7 examination.

8       5.     The Plaintiff will identify himself at the time of the examination by providing the  
9 Doctor with his valid ID.

10       6.     During the examination, the Doctor will not conduct any invasive procedures,  
11 including, but not limited to incisions, injections, rectal examination, body fluids sampling, DNA  
12 sampling, MRI, X-Rays, hair sampling, etc.

13       7.     The Doctor will retain all handwritten notes, e-mails sent and received, and all  
14 documents generated or received, including draft reports, related to the examination.

15       8.     The Doctor will produce a copy of his entire file upon reasonable request by the  
16 Plaintiff's counsel, including any test materials or raw data.

17       9.     The Doctor will not videotape or audiotape the Plaintiff, and Plaintiff will not  
18 videotape or audiotape the examination.

19       10.    The Doctor will not discuss with the Plaintiff issues involving liability of the case.  
20 However, the Doctor is permitted to ask questions regarding his prior medical history and the  
21 cause of the Plaintiff's alleged injury in the forms that will be provided to Plaintiff's counsel prior  
22 to the Examination.

23       11.    The Doctor will accurately report his findings and test results.  
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1       12. The Doctor acknowledges that his deposition may be taken in this case, and he  
2 will cooperate with the scheduling of same and comply with any subpoena for documents.

3       13. The Doctor acknowledges that his testimony may be used to cross-examine him  
4 in the future.

5       14. The examination will take place on March 31, 2023 at 1:30 p.m. at the Doctor's  
6 office located at 8530 W. Sunset Road, #200, Las Vegas, Nevada 89113.

7       15. Plaintiff shall arrive ten (10) minutes earlier than the scheduled appointment time.

8       16. Defense counsel provided the Doctor with a copy of this Stipulation and Order.  
9 The Doctor reviewed and agreed to the terms of this Stipulation and Order and authorized his  
10 electronic signature below.

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1       17. Defendants and the Plaintiff have entered into this Stipulation and have requested  
2 that the Court issue and Order incorporating its terms.

3       DATED: March 21st, 2023.

4       **HALL JAFFE & CLAYTON, LLP**

5       **/S/ RILEY A. CLAYTON**

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8       *Mutual Automobile Insurance Company*

4       **THE MEDRALA LAW FIRM PLLC**

5       **/S/ JAKUB MEDRALA**

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9       **LEWIS BRISOIS**

10       **/S/ KELLY SMITH**

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13       *General Indemnity Company*

14       /s/ James S. Forage

15       **James S. Forage, M.D.**

17       **ORDER**

18       **IT IS SO ORDERED.**

19       DATED: March 22, 2023



20       **UNITED STATES MAGISTRATE JUDGE**